

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**December 21, 2005**

**Clerk of Court**

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TERRY DON MYERS,

Petitioner - Appellant,  
v.

MIKE ADDISON, Warden,

Respondent - Appellee.

No. 04-6381  
(D.C. No. CIV-04-913-L)  
(W.D. Okla.)

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**ORDER**

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Before **EBEL**, **McKAY** and **HENRY**, Circuit Judges.

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Terry Myers, an Oklahoma state prisoner serving three consecutive 99-year sentences, seeks a certificate of appealability (“COA”) following the district court’s dismissal of his 28 U.S.C. § 2254 petition. He also seeks to proceed *in forma pauperis* on appeal. Mr. Myers’s underlying claim is that the Oklahoma state courts have denied his constitutional due process and equal protection rights by denying his request for free copies of his trial transcripts. In his habeas petition, he does not seek a release from custody, but rather an order that the transcripts be provided to him free of cost. The district court assigned the case to a magistrate judge, who provided a thorough analysis of Mr. Myers’s claims and recommended that his petition be denied.

To obtain a COA, a petitioner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons given in the magistrate judge’s Report and Recommendation, we conclude that Mr. Myers cannot make such a showing. We therefore DENY his request for a COA and DISMISS this appeal. We also DENY his request to proceed *in forma pauperis* on appeal.

ENTERED FOR THE COURT

David M. Ebel  
Circuit Judge